

REMARKS

Claims 1-13 and 48-60 are presented. Consideration of the claims is respectfully requested in view of the above amendments and the following remarks.

In prior prosecution, the Patent Office rejected claims 1-5, 12-13, 48-51, 53-56, and 59-60 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 4,192,302 issued to Boddie (Boddie). According to the Patent Office, Boddie teaches means 40 for selectively isolating a patient's cancer-involved liver.

Catheter 41 in general shunts blood flow in the inferior vena cava from below the liver to above the liver (see ligatures T3 and T4) via outlet 43 of catheter 41 which is positioned in the right atrium of the heart. The important aspect of means 40 is that the region of the inferior vena cava between the ligatures T3 and T4 (collection seals) isolates the flow from the hepatic veins (area of vessel just before T4). Catheter 41 (collection conduit) has opening 44 that collects flow from the isolated region of the inferior vena cava (downstream channel) and returns the flow from the liver to the external flow path.

Advisory Action, page 3.

Independent claim 1 describes a system including a delivery conduit and a collection conduit. As amended, each of the delivery conduit and the collection conduit may be percutaneously positioned. Support for percutaneously positioning a delivery conduit and a collection conduit may be found in the Application at, for example, page 22, line 18 through page 23, line 2. The collection conduit also includes a collection seal for occluding blood fluid flow by the collection seal.

Independent claim 1 is not anticipated by Boddie, because Boddie does not describe a delivery conduit or a collection conduit that may be percutaneously positioned. Boddie does not specifically state how its assembly is implemented within a patient, but it appears any implementation would require an invasive approach (e.g., opening of the chest cavity).

In addition, independent claim 1 is not anticipated by Boddie, because Boddie does not describe a collection conduit having a collection seal. The Patent Office relies

on ligatures T3 and T4 to describe the collection seal. However, ligatures T3 and T4 are described in Boddie as serving to "conformably engage and releasably hold" the outlet of the first catheter to the inferior vena cava and the outlet of the first catheter to the right atrium, respectively. Boddie does not describe that the ligatures are part of the collection conduit or act to occlude fluid flow.

For the above stated reasons, independent claim 1 is not anticipated by Boddie. Claims 4-5 and 12-13 depend from claim 1 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to claim 1, claims 4-5 and 12-13 are not anticipated by Boddie.

Independent claim 48 relates to system including a delivery conduit and a separate collection conduit. Each of the delivery conduit and the collection conduit have a dimension suitable to be percutaneously positioned. The collection conduit also includes a collection seal for occluding fluid flow by the collection seal.

As noted above with respect to claim 1, claim 48 is not anticipated by Boddie, because Boddie does not describe a delivery conduit or a separate collection conduit that may be percutaneously positioned. Further, Boddie does not describe a collection conduit comprising a collection seal for occluding fluid flow by the collection seal.

For the above stated reasons, claim 48 is not anticipated by Boddie. Claims 49-51, 53-56 and 59-60 depend from claim 48 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to claim 48, claims 49-51, 53-56, and 59-60 are not anticipated by Boddie.

Applicant respectfully requests that the Patent Office withdraw the rejection to claims 1-5, 12-13, 48-51, 53-56 and 59-60 under 35 U.S.C. §102(b) as anticipated by Boddie.

In prior prosecution, the Patent Office rejected claims 6-8, 52 and 57 as obvious over Boddie. In the Advisory Action, the Patent Office raised U.S. Patent No. 4,540,402 issued to Aigner (Aigner) as showing a balloon used to seal a catheter to a vessel wall. Claims 6-8 and 10-11 depend from claim 1 and therefore contain all the limitations of that claim. As noted above, Boddie does not describe a delivery conduit and a collection

conduit suitable for percutaneous positioning or a collection conduit having a collection seal for occluding fluid flow by the collection seal. Accordingly, claims 6-8 and 10-11 are *prima facie* not obvious over Boddie and nothing in Boddie would render the dependent claims obvious in view of the arguments presented with respect to independent claim 1. Similarly, claims 52, 57 and 58 depend from claim 48 and therefore contain all the limitations of that claim. As noted above with respect to claim 48, Boddie does not describe a delivery conduit or a separate collection conduit each having dimension suitable to be percutaneously positioned or a collection conduit having a collection seal for occluding fluid flow by the collection seal. Accordingly, claims 52, 57 and 58 are *prima facie* not obvious over Boddie. Nothing in Boddie would render the claims obvious in view of the arguments presented with respect to the independent claim 48.

Applicant respectfully requests the Patent Office withdraw the rejection to claims 6-8, 10-11, 52, 57 and 58 under 35 U.S.C. §103(a) as obvious over Boddie.

Finally, Applicant acknowledges the objection to claim 9. Applicant did not amend this claim at the present time, believing the claims from which claim 9 depends are similarly allowable over the prior art.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending (1) are in proper form, (2) are neither obvious nor anticipated by the relied upon art of record, and (3) are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: March 24, 2004



William Thomas Babbitt, Reg. No. 39,591

12400 Wilshire Blvd.
Seventh Floor
Los Angeles, California 90025
(310) 207-3800

CERTIFICATE OF MAILING:

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Nedy Calderon

3/24/04

Date